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West, Lora

From: Barton, Paula J
Sent: Friday, July 07, 2006 11:52 AM
To: Brancato, Gilda M
Cc: Kovar, Jeffrey D; Levin, Jan; Gale, T Hanny
Subject: FW: Enforced Disappearance final statement (Canada)

Gilda,

Below is the EOP delivered by Canada at the time of adoption. I'll send the UK statement separately.

Paula

Canada

Statement in Explanation of Position upon adoption of the International Convention for the Protection of All Persons against Enforced Disappearances by the UN Human Rights Council

Mr. President,

Canada has long been committed to combatting enforced disappearance. Canada helped to establish the Working Group on Enforced and Involuntary Disappearances, and supported the adoption of the UN Declaration on the Protection of All Persons from Enforced Disappearance.

Canada actively participated in the negotiation of the new Convention with the objectives of clearly prohibiting enforced disappearances, combatting impunity for such acts, and providing effective protection from this grave human rights violation, which continues to be perpetrated around the world. Canada is pleased to support the adoption of this Convention.

That we succeeded is in large part due to the dedication of the chair, the support of many States where this abhorrent practice was once widespread, and the resolve of many civil society activists, including victims.

While our preference would have been to allocate effective monitoring functions to the Human Rights Committee, as being best placed to provide a comprehensive remedy to victims, Canada joined consensus on the creation of a new body, and contributed to its strengthening. The Convention provides for a future review of the monitoring mechanism, to ensure consistency with efforts to strengthen the human rights treaty body system.

Canada requests that the following statements of understanding be placed on the official record of this meeting:

- The definition in article 2 and all references to crimes or offences in this Convention must be interpreted in light of the element of criminal intent required under domestic law for any criminal offence.
- Articles 5 and 6 must be interpreted consistent with international law, including the Rome Statute of the International Criminal Court.
- The provision in article 7 allowing for the consideration of mitigating circumstances in sentencing cannot be interpreted in any manner that would result in an effective amnesty which would allow impunity for violators, who must be punished with appropriate penalties taking into account the gravity of the offence.
- Article 8 on statutes of limitations must be interpreted as being subject to international law. This provision should never be allowed to operate so as to condone impunity for perpetrators. Further, no statutes of limitations are permitted under international law for any enforced disappearance which constitutes a crime against humanity.
- Article 12, paragraph 3 must be interpreted as permitting States to ensure access by investigating authorities to relevant documentation and other information which are not in the control of the State on the basis of prior authorization of a judicial authority, where necessary.

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: ARCHIE M BOLSTER
DATE/CASE ID: 22 JUN 2009 200706444

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- The provisions in article 24 relating to reparation must be interpreted in a manner consistent with international law, including the law of sovereign immunity.

Canada will consider whether to become a party to the new Convention following its adoption by the General Assembly. Canadian law already provides effective protection from the essential elements of enforced disappearance, including the criminalization of enforced disappearance at the level of a crime against humanity.

It is our hope that this new Convention will provide additional protection from enforced disappearance and contribute to ending impunity for this grave human rights violation.

Thank you Mr. President.